

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

CLARINDA COOP

ADMINISTRATIVE CONSENT ORDER

NO. 201~~6~~WW- 25

TO: Clarinda Coop
Attn: Doug Brown
401 N. 1st Street
Clarinda, IA 51632

I. SUMMARY

This administrative consent order ("Order") is entered into between Clarinda Coop and the Iowa Department of Natural Resources ("DNR") for the purpose of resolving violations resulting from a wastewater discharge from the Clarinda Coop facility in Clarinda, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Alison Manz
Field Office 4
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, IA 50022
Ph. 712-243-1934

Relating to legal requirements:

John Crotty
Legal Services Bureau
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319-0034
Ph. 515-725-8249

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034

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II. JURISDICTION

This Order is issued pursuant to Iowa Code 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 and the rules adopted or permits issued pursuant thereto, and pursuant to Iowa Code 455B.109 and 567 Iowa Administrative Code ("IAC") Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On June 23, 2016, a fisherman notified DNR Field Office 4 of bright red water entering the West Nodaway River via a small tributary. Environmental Specialist Alison Manz investigated the report. Ms. Manz observed bright red water in the river, in its tributary, and in a storm sewer that flows into the tributary.

2. On June 24, 2016, Ms. Manz spoke with Doug Brown, Seed Advisor at Clarinda Coop. Mr. Brown told Ms. Manz that he had rinsed out a jug of red seed colorant into a floor drain that connected to the city storm sewer system.

3. Since this incident, Clarinda Coop has permanently eliminated all storm sewer inlets on its property by filling the inlets with concrete.

IV. CONCLUSIONS OF LAW

DNR and Clarinda Coop agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Environmental Protection Commission ("Commission").

2. 567 IAC 61.3(2) provides general water quality criteria. These criteria provide that all waters shall be free from materials attributable to wastewater discharges producing objectionable color, odor, or other aesthetically objectionable conditions.

3. The facts stated in Section III of this Order constitute violations of Iowa Code 455B.186 and 567 IAC 61.3(2).

4. DNR has determined there is no likelihood that the violations identified in Paragraph 3 of this section will recur because Clarinda Coop has instituted a permanent remedy, as noted in Paragraph 3 of Section III.

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V. ORDER

Therefore, DNR orders and Clarinda Coop agrees to do the following:

1. Clarinda Coop shall not discharge a pollutant to any water of the state.
2. Within 60 days of the date the Director signs this Order, Clarinda Coop shall submit a plan to Field Office 4 which outlines steps its employees will take when disposing of rinse water from containers or tanks.
3. Within 30 days of the date the Director signs this Order, Clarinda Coop shall pay an administrative penalty of \$6,100.

VI. PENALTY

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter.
2. Iowa Code 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. DNR is assessing a penalty of \$6,100 for the violations described above. The following factors were considered in the assessment of this penalty:
 - a. Economic benefit. Clarinda Coop avoided costs associated with properly disposing of a chemical that was rinsed into a storm sewer. \$100 is assessed for this factor.
 - b. Gravity of the violation. The unpermitted discharge of wastewater to a water of the state negatively affects the beneficial uses of Iowa's rivers and streams. In this case, general water quality standards were violated when portions of the West Nodaway River and its tributary were turned a bright red color. \$3,000 is assessed for this factor.
 - c. Culpability. Clarinda Coop intentionally disposed of a chemical by rinsing it into a floor drain. Clarinda Coop regularly handles chemicals as part of its business. It has an obligation to be aware of its facility design, the regulations pertaining to its business, and the potential impact of its actions on the environment. \$3,000 is assessed for this factor.


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VII. WAIVER OF APPEAL RIGHTS

Iowa Code 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Clarinda Coop. By signing this Order, all rights to appeal this Order are waived.

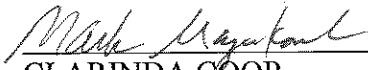
VIII. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code 455B.191.



CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 14th day of
December, 2016



CLARINDA COOP

Dated this 9 day of
December, 2016

Field Office #4; John Crotty; EPA; I.C.1